

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

Case No. 07-10094
02-90030

v.

Hon. Marianne O. Battani
Magistrate Judge Paul Komives

DOUGLAS TERRELL BUCHANNAN,

Defendant/Movant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DISMISSING PETITIONER'S MOTION AS MOOT**

After his conviction in this court for violation of 18 U.S.C. § 922(g), felon in possession of a firearm, Douglas Buchannan, served his 40 month term of imprisonment. During his two-year term of supervised release, an officer of the Detroit Police Department arrested Defendant for possession of cocaine. After Defendant pleaded guilty, his probation officer filed a petition in this Court charging Defendant with violating the terms of his supervised release. Buchannan pleaded guilty to the charge, and the Court sentenced him to an additional term of imprisonment, to be served concurrently with his state sentence.

Defendant subsequently filed a motion to vacate his sentence pursuant to 18 U.S.C. § 2255. He maintains the sentence was illegal because if the sentence had run consecutively, the Court could have considered his postsentencing rehabilitation and merely resentenced him to time served.

The Court referred this motion to Magistrate Judge Paul Komives for Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). In a Report and Recommendation ("R&R") dated April 10, 2008, Magistrate Judge Komives recommended that the petition be dismissed as moot because Buchannan has been released from federal custody. R&R, p. 2.

The Court has reviewed the pleadings and has conducted a *de novo* review of the R&R. The Court finds the R&R accurately articulates the law and presents a well-reasoned, persuasive analysis of the application of governing law to the facts of this case.

The Magistrate Judge informed the parties that objections to the R&R must be filed within ten days of service and that a party's failure to file objections would waive any further right of appeal. See R&R, pp.3-4. Neither party filed an objection.

Because no objection has been filed in this case, the parties waived their right to review and appeal. Accordingly, the Court **ADOPTS** the Magistrate Judge's recommendation and **DISMISSES** Defendant's motion.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATE: May 8, 2008

CERTIFICATE OF SERVICE

A copy of this Order was e-filed and/or mailed to Plaintiff and counsel of record on this date.

s/Bernadette M. Thebolt
Deputy Clerk